

REMARKS

Claims 1-22 and 25 are currently pending in the present application. It is gratefully acknowledged that the Examiner has allowed Claims 4, 8-22, and 25, and has found allowable subject matter in Claims 2-3 and 6.

In the Office Action, Claims 1, 5, and 7 were rejected under 35 U.S.C. §102(e) as allegedly being anticipated by *Chheda et al.* (U.S. Patent No. 6,181,738).

First, it is respectfully submitted that the Finality of the present Office Action is premature. More specifically, in the Office Action of May 26, 2005, the rejection of Claim 7 did not read on the recitations of Claim 7, and therefore, was improper. Accordingly, in the previously filed response filed on October 28, 2005, it was argued that the Examiner had not properly rejected Claim 7, and it was requested that the Examiner examine Claim 7 as written.

In response to the previous arguments, the Examiner has now changed the rejection of Claim 7 by providing an explanation that applies to pending Claim 7, i.e., that actually reads on the recitations of Claim 7. However, it is respectfully submitted that the Examiner has improperly asserted that since he previously rejected Claims 22 and 23, which contain similar recitations of Claim 7, he therefore properly examined Claim 7 in the previous Office Action. However, as indicated above, because the Examiner's rejection of Claim 7 made no sense in relation to Claim 7, Applicants have yet to have been given an opportunity to respond to the Examiner's corrected rejection, and therefore, the Finality of the present Office Action is premature.

Based on at least the foregoing, withdrawal of the finality of the Office Action is respectfully requested.

Turning now to the rejection under § 102(e), the present invention relates to an apparatus and method of controlling a power in a mobile communication system, and more particularly to an apparatus and method of controlling forward link power while in discontinuous transmission mode.

In regards to independent Claims 1, 5, and 7, which were rejected under 35 U.S.C. §102(e) as allegedly being anticipated by *Chheda*, the Examiner asserts that *Chheda* teaches all the recitations of these claims. It is respectfully submitted that this position is incorrect.

More specifically, for a rejection to support that the claim is anticipated by the reference, “No question of obviousness is present. In other words, for anticipation under 35 U.S.C. §102, the reference must teach every aspect of the claimed invention either explicitly or impliedly.” (See MPEP 706.02 (IV))

With regard to independent Claim 1, this claim recites providing a first ratio of an energy of the non-power control bits to an energy of the power control bits, and generating a power control command bit based on the ratio. However, the Examiner cites the ratio of E_b/N_0 , which is a ratio of bit energy-to-noise, as allegedly reading on a ratio of the non-power control bits to an energy of the power control bits. Further the Examiner asserts that other measurements are possible, citing SNR, SIR, E_b/N_t as examples. However, we can find no section of *Chheda* that teaches a ratio of an energy of the non-power control bits to an energy of the power control bits as would be required in order for Claim 1 to be anticipated by *Chheda*.

In response to the argument above, the Examiner disagrees, asserting that “applicant teaches a bit-to-bit compare whereas *Chheda* teaches a frame-to-frame compare (as pointed out in the office action). Hence one skilled in the art understands that both comparisons will ultimately lead the system to the same conclusion, e.g., whether to increase/decrease power.” While Applicants respectfully disagree with the Examiner’s summary of the present invention or *Chheda*, even assuming that the Examiner’s statement is correct, the Examiner points out that the present invention and *Chheda* are in fact different, and therefore, *Chheda* cannot anticipate Claim 1.

Based on at least the foregoing, withdrawal of the rejection of Claim 1 is respectfully requested.

With regard to independent Claim 5, this claim recites determining whether an energy of

power control bits of a received frame is more than a first threshold value. However, there is no section of *Chheda* that teaches either determining an energy of the power control bits or comparing the determined energy to a first threshold value, as would be required in order for Claim 5 to be anticipated by *Chheda*.

Based on at least the foregoing, withdrawal of the rejection of Claim 5 is respectfully requested.

With regard to independent Claim 7, which it appears the Examiner is not properly addressing, as we previously presented, *Chheda* does not disclose any feature of a *discontinuous transmission mode* as is recited in Claim 7.

Based on at least the foregoing, withdrawal of the rejection of Claim 7 is respectfully requested.

In summary, a ratio of the PCB (power control bit) to non-PCB of the present invention is different from the SNR of *Chheda* as described on page 31, line 27~ page 32, line 5 regarding Fig 14 of the present invention. In other words, the PCB energy of the present invention is an energy representing the period where there exists data. The energy corresponds to the signal strength ratio of the signal to the interference signal, which represents the actual channel state, which simply is the energy of the power control bits. Also, the non-PCB of the present invention is an energy representing the period where there does not exist data. The non-PCB is different from noise. Thus, the ratio of PCB to non-PCB in the present invention and the SNR of *Chheda* are different from each other, and one cannot anticipate the other.

Based on at least the foregoing, withdrawal of the rejection of Claims 1, 5 and 7 is respectfully requested.

Independent Claims 1, 5 and 7 and are believed to be in condition for allowance.

Accordingly, all of the claims pending in the Application, namely, Claims 1-22 and 25, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", written over the typed name.

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